


State Bar Court of California
Hearing Department
San Francisco
ALTERNATIVE DISCIPLINE PROGRAM

Counsel For The State Bar Heather E. Abelson Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357	Case Number (s) 15-N-15198-LMA	(for Court's use) <div style="text-align: center; font-size: 2em; font-weight: bold;">FILED</div>  FEB 06 2017 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
Bar # In Pro Per Respondent Zachary Alexander Toran Law Offices of Zachary A. Toran 264 20th Ave San Francisco, CA 94121 (415) 850-9067	Submitted to: Program Judge STIPULATION RE FACTS AND CONCLUSIONS OF LAW <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
Bar # 267822		
In the Matter Of: ZACHARY ALEXANDER TORAN Bar # 267822 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted **December 4, 2009**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 7 pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."



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- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

B. Aggravating Circumstances [see Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline**
- (a) ☒ State Bar Court case # of prior case 11-C-17711-PEM. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 6.
- (b) ☒ Date prior discipline effective **October 19, 2013**. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 6.
- (c) ☒ Rules of Professional Conduct/ State Bar Act violations: **California Penal Code Section 415(2), a crime which involved moral turpitude**. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 6.
- (d) ☒ Degree of prior discipline **6-months actual suspension, 3 years stayed suspension, 3 years probation**. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 6.
- (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below:
- 15-PM-10969-LMA**. See "Facts Supporting Aggravating Circumstances" in the attachment hereto at page 6.
- (2) ☐ **Intentional/Bad Faith/Dishonesty**: Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation**: Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) ☐ **Concealment**: Respondent's misconduct was surrounded by, or followed by concealment.
- (5) ☐ **Overreaching**: Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) ☐ **Uncharged Violations**: Respondent's conduct involved uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7) ☐ **Trust Violation**: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☐ **Harm**: Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference**: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (10) ☐ **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☐ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ on in restitution to without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

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- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☒ **No mitigating circumstances** are involved.

Additional mitigating circumstances:

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: ZACHARY ALEXANDER TORAN

CASE NUMBER: 15-N-15198-LMA

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

Case No. 15-N-15198-LMA (State Bar Investigation)

FACTS:

1. On May 2, 2013, the Hearing Department issued a Decision in case no. 11-C-17711-PEM. The court found that respondent's misdemeanor conviction of violation of Penal Code section 415(2) (any person who maliciously and willfully disturbs another person by loud and unreasonable noise), involved moral turpitude. The court recommended 6-months actual suspension, 3-years stayed suspension, and 3-years probation.
2. On September 19, 2013, the Supreme Court of California issued Order No. S211926, adopting the Hearing Department's recommendations. Among other conditions, respondent was ordered to comply with the conditions of probation recommended by the Hearing Department in its May 2, 2013 Decision. The Order became effective on October 19, 2013.
3. On March 4, 2015, the Office of Probation filed a motion to revoke the probation of respondent for willfully failing to comply with the terms of his probation. Respondent did not file a response to the Office of Probation's motion.
4. On April 20, 2015, the Hearing Department issued an order granting the Office of Probation's motion, finding that respondent willfully failed to take Ethics School and CTA School. The Hearing Department recommended that respondent be actually suspended for 3 years with a Standard 1.2(c)(1) requirement, and was ordered to comply with rule 9.20. The Hearing Department also enrolled respondent as involuntary inactive.
5. On July 16, 2015, the Supreme Court of California issued Order No. S211926, adopting the Hearing Department's April 20, 2015 order. The Supreme Court ordered respondent to comply with California Rules of Court, rule 9.20. Specifically, respondent was ordered to file a rule 9.20 compliance declaration within 40 days after the effective date of discipline. The Supreme Court's Order became effective on August 15, 2015.
6. On July 24, 2015, the Office of Probation sent a courtesy letter to respondent summarizing his conditions of probation, including the requirement that respondent file a rule 9.20 compliance declaration by September 24, 2015. Respondent received this letter.

7. Respondent failed to file a rule 9.20 declaration by September 24, 2015.

8. On September 29, 2015, the Office of Probation sent a reminder letter to respondent, notifying respondent that he had not filed a rule 9.20 compliance declaration by the deadline. Respondent received this letter.

9. On December 17, 2015, respondent untimely filed a rule 9.20 compliance declaration.

CONCLUSIONS OF LAW:

10. By failing to file a declaration of compliance with California Rules of Court, rule 9.20 in conformity with the requirements of rule 9.20(c) with the clerk of the State Bar Court by September 24, 2015, as required by Supreme Court order no. S211926, respondent willfully violated California Rules of Court, rule 9.20.

FACTS SUPPORTING AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.5(a)): Respondent has been disciplined by the State Bar on two prior occasions. In State Bar case no. 11-C-17711, the Supreme Court ordered respondent actually suspended for 6 months for violating Penal Code section 415(2) (any person who maliciously and willfully disturbs another person by loud and unreasonable noise), a crime which involved moral turpitude. The Supreme Court's Order became effective on October 19, 2013. In case no. 15-PM-10969-LMA, the Supreme Court ordered respondent's probation revoked, and further ordered respondent actually suspended for 3 years for failing to complete Ethics School and CTA School. The Supreme Court's Order became effective on August 15, 2015. Respondent's prior records of discipline constitute an aggravating circumstance pursuant to Standard 1.5(a).

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of Chief Trial Counsel has informed Respondent that as of January 11, 2016, the prosecution costs in this matter are \$2,549. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

EXCLUSION FROM MCLE CREDIT

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: ZACHARY ALEXANDER TORAN	Case number(s): 15-N-15198-LMA
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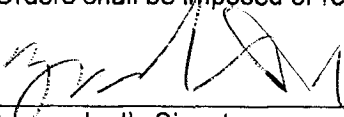
SIGNATURE OF THE PARTIES


By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

<u>2/13/16</u>		<u>Zachary Alexander Toran</u>
Date	Respondent's Signature	Print Name

<u>2/4/16</u>		<u>Heather E. Abelson</u>
Date	Deputy Trial Counsel's Signature	Print Name

(Do not write above this line.)

In the Matter of: ZACHARY ALEXANDER TORAN	Case Number(s): 15-N-15198-LMA
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ALTERNATIVE DISCIPLINE PROGRAM ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulation as to facts and conclusions of law is APPROVED.
- ☐ The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- ☐ All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date Feb 6, 2017


PAT E. McELROY
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

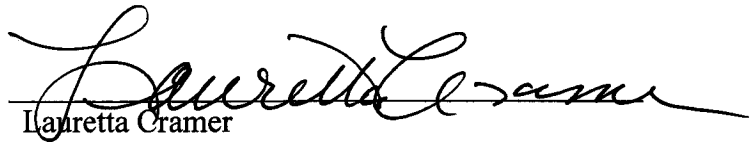
I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on February 6, 2017, I deposited a true copy of the following document(s):

STIPULATION RE FACTS AND CONCLUSIONS OF LAW

- ☒ By personal service by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

SHERRIE McLEITCHIE
ZACHARY ALEXANDER TORAN

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 6, 2017.


Lauretta Cramer
Case Administrator
State Bar Court